

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY , JUNE 25 , 19 91

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE
COUNCIL CHAMBERS Tuesday Regular EVENING June 25 , 1991 ,
IN Regular SESSION. PRESIDENT Samuel J. Talarico
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine , AND
Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE
FOLLOWING MEMBERS VIZ:

BRADBURY P , BURNS P , EDMONDS P ,
GIAQUINTA Absent. HENRY P , LONG P ,
REDD P , SCHMIDT P , TALARICO P ,

ABSENT: _____

COUNCILMEMBER: _____

THE MINUTES OF THE LAST REGULAR June 11 , 1991 ,
19_____,

SPECIAL _____, 19_____,

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,
APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 25th day of June, 1991, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 3rd day of July,
1991.

Sandra E. Kennedy

City Clerk



Paul Helmke
Mayor



6 June 1991

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
CityCounty Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-91-05-26

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
6th day of June 1991.

Robert Huttner
Secretary

An Equal Opportunity Employer
One Main Street, Fort Wayne, Indiana 46802

FACT SHEET

Z-91-05-26

BILL NUMBER**Division of Community
Development & Planning**

BRIEF TITLE	APPROVAL DEADLINE	REASON	
Zoning Map Amendment From M1,B3B,R1 to RA,B4,R1,B3B			
DETAILS		POSITIONS	RECOMMENDATIONS
Specific Location and/or Address See Attached Location Map		Sponsor	City Plan Commission
Reason for Project To prevent inappropriate uses from harming existing commercial investment and to match the zoning to existing development patterns.		Area Affected	City Wide Other Areas
Discussion (Including relationship to other Council actions) <u>20 May 1991 - Public Hearing</u> See Attached Minutes of Meeting <u>3 June 1991 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation. Of the eight (8) members present seven (7) voted in favor of the motion, one (1) did not vote. Motion carried.		Applicants/ Proponents	Applicant(s) Community & Economic Development City Department Other
		Opponents	Groups or Individuals See attached minutes for list. Basis of Opposition - rezoning would devalue property values
		Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
		Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
		CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS**POLICY/ PROGRAM IMPACT**

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start

Date 25 April 1991

Projected Completion or Occupancy

Date 6 June 1991

Fact Sheet Prepared by

Date 6 June 1991

Patricia Biancaniello

Reviewed by

Larry Maggiozzi

Date

June 11, 1991

Reference or Case Number

b. Change of Zone #474
From M1, B3B & R1 to RA, B4, R1 & B3B
Lots 20, 21 & 22 in Young's Place Addition,
and an area generally bounded by the junction of
Clinton Street and Coldwater Road on the north, and
Northrop Drive between Norfolk Street and Dalgren
Avenue on the south, including both sides of Clinton
Street and Edgewater Avenue.

Scott Cassingham, Planner II with Community & Economic Development appeared before the Commission. Mr. Cassingham stated that they have been working on this since the first of the year. He stated looking at the area, specifically the I & J Recycling property, but also at the area around it for potential conflicts of zoning and actual uses. He stated that the concern is that this area, which is zoned almost entirely for light industrial, would allow for uses that would be incompatible with the existing development. He stated that there study showed that to be true. He stated that they did a field inspection of the area and found a clear line of demarcation between industrial uses and commercial uses as they have been developed. He stated that the main concern of the staff is that the property zoned M-1 would permit uses that would present a threat to not only the commercial investments in the area but also the surrounding residential areas. He stated that they are simply trying to bring the zoning in line with the actual use. He stated that they had a meeting with the property owners in the area regarding the proposal. He stated that most of them present were concerned about the reclassification. He stated the staff feels that as this area is presently developed there is clearly a conflict between the use and the zoning. Mr. Cassingham stated that the reclassification of this area will create only three legal non-conforming uses all of the rest of the uses will become consistent with their use. He stated that the bulk of the proposed rezoning would be from M-1 to B-3-B and B-4.

John Shoaff questioned if any of the uses allowed in the proposed zoning reclassification would create a visual or traffic problem.

Mr. Cassingham stated it would probably depend upon how the facility was designed and developed.

Chuck Layton questioned which businesses would become legal non-conforming by rezoning.

Mr. Cassingham stated Arrow Fence, a restaurant and two car dealers.

Mr. Layton questioned how legal non-conforming status would affect these properties.

Mr. Cassingham stated that generally speaking it would cause no change. He stated that with the exception of Arrow Fence which requires an M-1 zoning because they do some fabrication on the

premises. He stated that they would be allowed to continue their operation as it is now being used, they would simply go under a legal non-conforming status.

Mark Gensic questioned who owned I&J Recycling.

Mr. Cassingham stated that to his knowledge it was a partnership called I-Jones Partnership. He stated that they have apparently not paid their taxes and the County could take title of the property. He stated however that the County has not taken title to the property.

The following people appeared in opposition to the proposed rezoning:

Richard Bidlack, 5508 Wapiti Dr
Nakos Christos, 3126 & 3518 No Clinton St
Merl Griffith, 3720 No Clinton St
Gerald Hetrick, 3126 No Clinton St
Larry Paris, 3325 No Clinton St
Joseph Zurzolo, 4830 Schumcker Rd

- property has been purchased because of the M-1 zoning classification
- felt rezoning to a lower classification would devalue the property
- property is more valuable as zoned M-1 - property would be prohibited from being used as manufacturing
- felt the city was being unfair to the property owners by rezoning without their consent

In rebuttal, Scott Cassingham stated that the city is sympathetic to the concerns of the property owners with regard to limiting the use of the property by reclassifying it to a lesser zoning or to diminishing the value of the property by rezoning. He stated however that the city is also concerned about the neighbors to these properties. He stated that the properties adjacent to this commercial area must also be protected. He stated that the reclassification still allows for a multitude of uses. He stated that the M-1 district is basically for manufacturing uses and that type of use in this area is not compatible.

Mel Smith questioned what the city expected to "gain" from this reclassification.

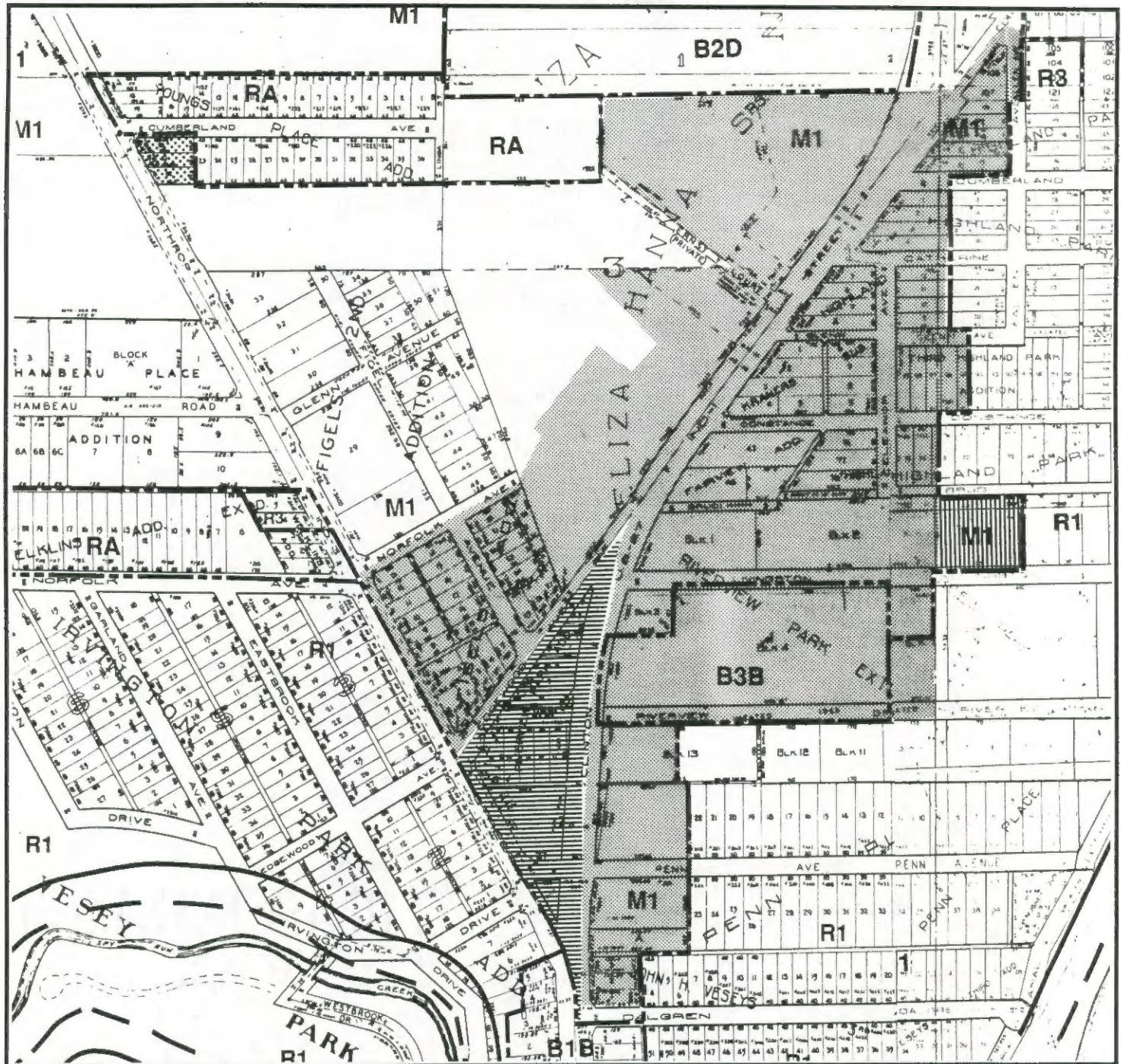
Mr. Cassingham stated that the city doesn't really expect to "gain" anything. He stated that the reclassification would make the zoning more consistent with the uses and the area and be more compatible with the surrounding areas. He stated it also protects the area from any use that would be considered incompatible with the existing uses.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

REZONING PETITION

AREA MAP

CASE NO. #474



COUNCILMANIC DISTRICT NO. 3

REZONING from M1; B3B; R1

Map No.: M-22

LW 5-3-91

■ to B3B ■■■ to R1

■■■ to B4

■■■■ to RA

R1	One-Family
R2	Two-Family
R3	Multi-Family
RA/RB	Residential
PUD	Planned Unit Dev.

B1	Limited Business
B2	Planned Shopping Center
B3	General Business
B4	Roadside Business
POD	Professional Office District

M1	Light Industrial
M2	General Industrial
M3	Heavy Industrial
MHP	Mobile Home Park

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on May 28, 1991 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-91-05-26; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on May 20, 1991.

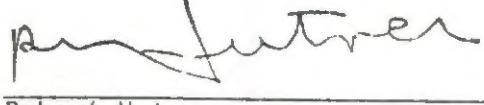
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact":

- (1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;
- (3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,
- (5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held June 3, 1991.

Certified and signed this
6th day of June, 1991.



Robert Hutter
Secretary

Proposal for the Plan Commission to request a change of zoning in the vicinity of the former I.J. Recycling facility from M-1, B3B, and R-1 to B3B, B4, RA, and R-1.

Location: 1) lots 20, 21, and 22 of Youngs Place Add.;
 2) an area generally bounded by the intersection of Clinton Street and Coldwater Road on the north and Northrup Street between Norfolk Street and Dalgren Avenue on the south, including both sides of Clinton Street and Edgewood Avenue.

Legal: see file

Land Area: approximately 60 acres

Current Zoning: M-1, B3B, R-1

Surroundings: North RA/M-1/B2D Resid. & Commercial
 South B1B/R-1 Resid. & Commercial
 East R-1 Residential
 West R-1/RA Resid. & Industrial

Neighborhood Assoc.: Highland Park Forest Community;
 Irvington Park; North Triangle
 Neighborhood

Reason for Request:

In order to prevent inappropriate uses from harming existing commercial investment and to match the zoning to existing development patterns. See the list attached at the end of this analysis for representative uses that would be excluded from the proposed B3B district.

Comprehensive Plan:

The general land use policies of the comprehensive plan state that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located within the Middle Ring. The goal in the Middle Ring is to maintain investments and prevent deterioration in existing neighborhoods.

The proposed rezoning will help maintain investments in this area by ensuring new development is compatible with existing land uses.

Planning Staff Discussion:

In early 1991, staff was asked to investigate the possibility of rezoning the former I. J. Recycling facility on North Clinton Street to prevent the reuse of this site for hazardous waste recycling or a similarly noxious activity. Staff prepared a land use study of the surrounding area, comparing the actual uses to the existing zoning.

Almost the entire study area is currently zoned M-1 Light Industrial. This classification also allows more intense general industrial uses as long as they do not contain more than 15,000 square feet of floor area. The field study revealed that, although they are allowed almost anywhere within the study area, industrial uses are substantially segregated from commercial and residential uses.

The line of demarcation between industrial and commercial uses, as developed, is very clear. It runs generally on a line along Norfolk Street extended to the western boundary of the I. J. Recycling site. Industrial uses are almost exclusively located west of this line, while to the east the uses are almost entirely commercial in nature.

Clearly, the zoning and actual land uses do not match in the predominately commercial part of the study area. Staff believes that this conflict between current zoning and development patterns represents a potential threat to existing commercial development and investment. The former I. J. Recycling facility is only one example of that conflict. The inherently incompatible use of that site could be repeated throughout this area as it is presently zoned.

Staff notified the property owners within the study area of this potential rezoning and invited them to an informational meeting April 10, 1991. A preliminary rezoning proposal was prepared for discussion at that meeting, which 15 property owners attended. Based on this discussion and further staff analysis, the preliminary rezoning proposal was modified to its current form.

Staff therefore proposes that the area should be rezoned, as detailed in the legal description, so that the historical pattern of development will be protected from incompatible uses. The boundaries for the most part follow existing zoning districts, street and alley centerlines, and property lines. The only exception to this is west of Clinton Street, where the proposed rezoning line is drawn in back of the commercial buildings fronting Clinton.

The bulk of the proposed rezoning would be from M-1 to B3B and B4, and would create only three non-conforming, though still legal, uses. These three properties are "islands", surrounded by commercial uses. One is even adjacent to residences and residential zoning.

The other two areas proposed to be rezoned will also change M-1 zoning to match existing and adjacent development. One will rezone three lots in Youngs Place addition to RA. (The rest of that entire subdivision is on the northern border of the study area and is zoned RA.) The other will rezone a vacant area on the east of the study area to R-1 so that it matches the adjacent residentially zoned neighborhood.

During the course of this study we had a request to rezone one property owner's land from RA to M-1. This property is located immediately west of the I. J. Recycling site and east of Youngs Place addition. Such a change would be in direct opposition to the purpose of this study. Instead of matching zoning to existing development patterns and preventing the intrusion of incompatible land uses, rezoning this property would increase the risk of adverse development. Staff, therefore, recommends that it not be included in the Commission's proposal.

Recommendation: Do Pass

Reasons:

1. The proposal is compatible with the Comprehensive Plan.
2. The proposal is consistent with development patterns in the area.
3. Existing development, both commercial and residential, would be compromised if the land were developed to its maximum potential intensity allowed by current zoning.

**Uses Excluded From
the
B3B Zoning District**

All fabricating, warehousing, manufacturing, and processing industries, as well as "roadside businesses", would be excluded from the proposed B3B district. These include, but are not limited to, the following*:

- * Agricultural service store
- * Agricultural implement sales
- * Animal kennel, enclosed, outside run
- * Auction hall
- Building and Road contractor equipment storage yard
- Building and Road contractor equipment sales
- Building and Road contractor equipment rental
- * Bottled gas service
- * Bottling works
- Building materials sales yard
- Chick hatchery
- * Children's amusement park
- Concrete block manufacturing plant
- Draying freighting and trucking yard
- * Drive-in restaurant
- * Drive-in theater
- Electrical receiving station
- Experimental laboratory
- Feed/grain storage
- Freighting/trucking terminal
- * Fruit/vegetable stand
- Fuel yard
- Ice manufacturing/cold storage
- * Ice vending station
- * Light equipment rental service
- * Live bait stand
- * Miniature golf course
- * Miniature railroad
- * Pony riding ring
- * Pottery/souvenir shop
- Poultry dressing
- Printing plant
- Public utility service yard
- * Race track
- * Refreshment stand
- * Riding academy/stable
- Storage
- * Water slide
- * Wholesale florist/greenhouse
- Wholesale food market
- Wholesale merchandise

* = permitted in the B-4 district



Paul Helmke
Mayor

THE CITY OF FORT WAYNE



6 June 1991

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
CityCounty Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. G-91-05-24

Respectfully submitted,
CITY PLAN COMMISSION

Certified and signed this
6th day of June 1991.

Robert Huttner
Secretary

An Equal Opportunity Employer
One Main Street, Fort Wayne, Indiana 46802

FACT SHEET

G-91-05-24

BILL NUMBER**Division of Community
Development & Planning**

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Ordinance Amendment		

DETAILS	POSITIONS	RECOMMENDATIONS
<p>Specific Location and/or Address N/A</p> <p>Reason for Project Eliminates references to previously deleted IA District. Replaces the procedure and permit section of the Mobile Home Park district with a reference to the B-2 procedures (instead of IA).</p> <p>Discussion (Including relationship to other Council actions) <u>20 May 1991 - Public Hearing</u> Larry Maglizzzi, Senior Planner with C&ED stated that a number of months ago the Plan Commission had a public hearing on the deletion of the IA text from the Zoning Ordinance. He stated that it proved to be a successful amendment and was passed by City Council. He stated that in order to clarify and make sure that codification of the City Code proceeds in an accurate manner they decided between staff and legal counsel to pursue the deletion of references to IA district in other portions of the ordinance. He stated the most important deletion of the IA reference was in the MHP District. There was no one else present who wished to speak in favor of or in opposition to the proposed ordinance.</p>	<p>Sponsor</p> <p>Area Affected</p> <p>Applicants/ Proponents</p> <p>Opponents</p> <p>Staff Recommendation</p> <p>Board or Commission Recommendation</p> <p>CITY COUNCIL ACTIONS (For Council use only)</p>	<p>City Plan Commission</p> <p>City Wide</p> <p>Other Areas</p> <p>Applicant(s) Community & Economic Development City Department</p> <p>Groups or Individuals</p> <p>Basis of Opposition</p> <p><input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against</p> <p><input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)</p> <p><input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Council Sub. <input type="checkbox"/> Hold <input type="checkbox"/> Do not pass</p>

DETAILS

June 3, 1991 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the eight (8) members present, seven (7) voted in favor of the motion, one (1) did not vote.

Motion carried.

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start

Date 25 April 1991

Projected Completion or Occupancy

Date 6 June 1991

Fact Sheet Prepared by

Patricia Biancaniello

Date 6 June 1991

Reviewed by

Larry Nagle

Date June 11, 1991

Reference or Case Number

Proposed amendments to the Zoning Ordinance text.

Background:

The Plan Commission recently eliminated the text of the IA (Interchange Access) District. Due to this deletion, additional amendments are required to eliminate references to the previous IA text.

For the most part these amendments delete insubstantial references to the IA District, such as in terms of setbacks, cross reference tables etc.

The only meaningful reference is contained in the provisions for the MHP (Mobile Home Park) District where reference is made regarding development plan procedures and permit requirements. Staff has suggested that this text be replaced with a reference to the procedures used in planned shopping center districts.

Amendments:

1) Sec 33-9 Establishment and designation is amended to delete all references to the IA Interchange Access district. This section of text establishes the city's zoning classifications, and includes a cross reference chart showing a comparison with county designations.

2) Sec 33-14 (m) (3) is deleted and replaced with the following:

"After Mobile Home Park Districts have been established, applications for approval of development plans for a mobile home park may be filed with the plan commission. Procedures for review and approval shall be the same as those established for B-2 districts."

3) Sec 33-14 (m) (5) is deleted and replaced with the following:

"As to Issuance of permits, construction of improvements under permits, revocation of permits and amendments to development plan, the provisions established under the B-2 districts shall apply."

4) Sec 33-15 (a) is amended to delete all references to the IA district. This section establishes the height requirements for districts.

5) Sec 33-33 (a) is amended to delete all references to the IA district. This section addresses administrative approval of amendments to development plans.

6) Sec 33-34 3) is amended to delete all references to the IA

district. This section addresses outdoor storage and display.

Planning Staff Discussion:

Staff recently proposed the elimination of the IA district. While we wanted to ensure that the elimination of the district was approved, we did not want to create a situation where these parcels were left without a valid zoning classification. Therefore, staff proposed separate rezoning for those sites that were developed under the provisions of the IA district, and that then could be acted upon in the same orderly sequence.

At the same time we were concerned with some text references in other portions of the ordinance. We wanted the opportunity to examine these sections and determine the impact of having a reference to a non-existent zoning classification. We have discussed this matter with attorney David Wright and have agreed that this (amendment) approach would eliminate any confusion that could arise by having a reference to a district that no longer existed. Further, it guarantees that the codification company will be aware of the deletion of all the references.

As the above list of amendments indicates, the only substantial changes will be in the text that addresses MHP (Mobile Home Park) Districts. In this section the existing text refers to the IA district in terms of development plan procedures and permit requirements. Staff has suggested that this text be replaced with a reference to the procedures used in a planned shopping center district.

Recommendation: Do Pass, as approval will address all references to the previous zoning classification.

RESOLUTION OF ZONING ORDINANCE TEXT AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana on May 28, 1991 referred a proposed text amendment which proposed amendment was designated as Bill No. G-91-05-24; and,

WHEREAS, the required notice of public hearing on such proposed amendment has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed amendment on May 20, 1991.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this amendment be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

- (1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held June 3, 1991.

Certified and signed this
6th day of June 1991.



Robert Hutner
Secretary